UNITED
NATIONS

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Economic and Social
Council

Distr.
GENERAL

E/CN.4/1991/NGO/4
15 January 1991

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Forty-seventh session
Item 10 of the provisional agenda

QUESTION OF THE HUMAN RIGHTS OF ALL PERSONS SUBJECTED TO ANY FORM OF DETENTION OR IMPRISONMENT, IN PARTICULAR:

(a) TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(b) STATUS OF THE CONVENTION AGAINST TORTURE AND OTHER CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT;

(c) QUESTION OF ENFORCED OR INVOLUNTARY DISAPPEARANCES.

Written statement submitted by the International League for Human Rights a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[29 December 1990]

Measures to protect torture victims

1. In its resolution 1990/34, the Commission on Human Rights stressed many of the conclusions and recommendations of the Special Rapporteur on Torture, mentioning in particular: the importance of instituting a system of periodic visits by independent experts to places of detention; the importance of limiting, and eventually declaring illegal, incommunicado detention under national law, since the great majority of allegations refer to torture practised during incommunicado detention; and the need to adopt "legal provisions ... prescribing that a person shall be given prompt access to a legal counsel after he has been arrested" and requiring that relatives be promptly informed of the arrest and location of the detainee.

2. The International League for Human Rights finds that such measures are urgently needed to help protect victims of torture and would be effective in reducing instances of torture. It believes that the activities of the Special Rapporteur and the Committee against Torture (CAT) are complementary and continued co-operation between the two should be encouraged. Both the Rapporteur on Torture and the Committee against Torture have addressed the issues cited above in their reports and could work constructively to implement them.

3. In its latest report (A/45/44), currently before the forty-seventh session of the Commission on Human Rights, members of the Committee noted that a large number of questions about torture and the practices that facilitate it remained unanswered by States Parties. In accord with the Convention and the Committee's guidelines, it therefore requested additional reports from several States parties.

4. In its review of the Netherlands report, the Committee asked for an additional report from Aruba. It also requested the Chilean authorities (then representing the Government of General Pinochet) to present an additional report with complete data and statistics on recent cases of torture, on proceedings initiated against perpetrators, and on compensation granted to victims. Members observed at the time that the informational training of Chilean officials in the prevention of torture was still unsatisfactory.

5. Committee members also requested an additional report, by 31 December 1990, from the Peoples' Republic of China. Among the outstanding concerns of the members were cases on China mentioned in the report of the Special Rapporteur on Torture [which allege beatings, suspension, use of electric batons, and prolonged, painful shackling], the use of evidence obtained by torture, the organization and independence of the judiciary, conditions of detention, contacts of detainees with their families, and the role of medical personnel in establishing whether torture had taken place. (A/45/44, para. 500).

6. The Committee against Torture, the Special Rapporteur on Torture and the Working Group on Enforced or Involuntary Disappearances all note problems related to China. In the current Committee against Torture report, the Government's statement that torture had yet to be eliminated completely was discussed (para. 484). Committee against Torture members raised numerous questions about the practice of incommunicado detention (para. 482), and the Government representative replied that secret detention occurred only when necessary to segregate certain categories of prisoners from others, and that

normal procedure was to inform families of detainees (para. 493). The representative also stated that "following the anti-governmental disturbances in 1989, there had been no summary arrests or detentions of peaceful demonstrators, summary executions, or widespread murder" (para. 497), but explained that "a handful of persons engaged in anti-governmental rioting and criminal activities, such as looting, arson, and murder" had been arrested.

7. The League wishes to draw the attention of the Commission to the fact that the Chinese authorities officially acknowledge some 300 persons were killed in the 3-4 June 1989 events and unofficial estimates run higher (above 1,000). Witnesses have reported on the indiscriminate and deliberate killings by army troops. The Special Rapporteur on Summary and Arbitrary Executions has not, to our knowledge, received word of any investigations of the type required by the new Principles on the Effective Prevention and Investigation of Extra-Legal, Arbitrary, and Summary Executions, adopted by the Crime Committee and, in Spring 1989 by the Economic and Social Council. During 1990, the Chinese authorities themselves announced the release of a total of 881 persons arrested in connection with the 3-4 June 1989 events. In June, the Government stated that 355 more such prisoners remain. The League has a list of the names of over 800 others and considerable evidence that the actual number of detainees following the June events is much higher. Most were arrested for non-violent actions such as "spreading rumours", "shouting reactionary slogans" or "distributing counter-revolutionary handbills, that constitute punishment for peaceful exercise of internationally guaranteed human rights.

8. Many detainees have been physically maltreated and tortured by law enforcement officials, whose actions appear to have been intended to extract "confessions" of various "crimes". These confessions are then used as evidence in subsequent criminal proceedings. The Chinese authorities have kept pro-democracy detainees incommunicado for long periods, a practice that, as noted above, contributes to torture. Chinese authorities are not complying with the minimal requirements of the Criminal Procedure Law (10 day limit on detention without charge and the requirement to inform families). The procedures used to put pro-democracy activists on trial (both the normal and the expedited procedures) do not conform to accepted international standards for protection of the rights of the accused. They fail to require or ensure that (a) a person who is detained is "promptly" informed of the charges against him and can take "proceedings before a court" to decide "without delay" the lawfulness of the detention; (b) a detainee has access to legal advice at an early stage; (c) the trials are held in public; and (d) the preconditions under international law for the imposition of the death penalty are observed. Further, many persons do not come to trial at all because they are administratively sentenced to terms at "reform through labour" camps.

9. A number of the pro-democracy movement detainees who have been released have attested to acts of torture against themselves and other prisoners, by methods cited in the Special Rapporteur's report, including shackling, beatings, and electric batons. Individuals who are held without charges are often kept incommunicado, without notification to their families, and without access to legal or medical personnel - all conditions the Special Rapporteur on Torture has identified as facilitating torture. Some of these persons have "disappeared" and the Working Group on Disappearances currently reports on some individual cases.

10. Many of the pro-democracy detainees still have not been officially identified, or charged. The Government has refused to provide a list of detainees and their whereabouts. Some of the students or intellectuals who were detained since 1989 have only recently been charged and are to be brought to trial soon - Wang Juntao and Chen Zhiming have reportedly been charged recently; both student leader Wang Dan and labour unionist Han Dongfang have yet to be charged or brought to trial at all. Such lengthy delay and extended detention clearly violate international human rights standards.

11. Finally, Chinese legal journals have criticized the lack of independence of the judiciary in China. The "adjudication committee" system, whereby decisions about cases are decided in advance, constitutes a much criticized system called "verdict first, trial second". Because the Communist Party committees advise judicial personnel as to the nature of the verdicts prior to the trials, the detainees have no chance of a fair trial by an independent and impartial judiciary in accordance with international standards.

12. To help lessen chances of torture, the International League for Human Rights urges speedy efforts to implement the Commission's past recommendations concerning the establishment of a team of independent experts to undertake periodic visits to places of detention, to declare incommunicado detention illegal, and to ensure that detained persons be given prompt access to independent legal counsel.

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